

72-10-501 Flying under the influence of alcohol, drugs, or with specified or unsafe blood alcohol concentration -- Calculations of blood or breath alcohol -- Criminal punishment -- Arrest without warrant.

- (1)
 - (a) A person may not operate or be in actual physical control of an aircraft within this state if the person:
 - (i) has sufficient alcohol in his body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .04 grams or greater at the time of the test;
 - (ii) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the person incapable of safely operating an aircraft; or
 - (iii) has a blood or breath alcohol concentration of .04 grams or greater at the time of operation or actual physical control.
 - (b) The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense against any charge of violating this section.
- (2) Calculations of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(1).
- (3)
 - (a) A person convicted of a violation of Subsection (1) is guilty of a:
 - (i) class B misdemeanor; or
 - (ii) class A misdemeanor if the person has also inflicted bodily injury upon another as a proximate result of having operated the aircraft in a negligent manner.
 - (b) In this section, the standard of negligence is that of simple negligence, the failure to exercise that degree of care that an ordinarily reasonable and prudent person exercises under like or similar circumstances.
- (4) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe:
 - (a) the violation has occurred, although not in the officer's presence; and
 - (b) the violation was committed by that person.

Amended by Chapter 2, 2005 General Session